

DAMS IN EMIGRANT WILDERNESS, STANISLAUS NATIONAL
FOREST, CALIFORNIA

JULY 21, 1997.—Committed to the Committee of the Whole House on the State of
the Union and ordered to be printed

Mr. YOUNG of Alaska, from the Committee on Resources,
submitted the following

REPORT

[To accompany H.R. 1663]

[Including cost estimate of the Congressional Budget Office]

The Committee on Resources, to whom was referred the bill (H.R. 1663) to clarify the intent of the Congress in Public Law 93-632 to require the Secretary of Agriculture to continue to provide for the maintenance of 18 concrete dams and weirs that were located in the Emigrant Wilderness at the time the wilderness area was designated as wilderness in that Public Law, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. OPERATION AND MAINTENANCE OF EXISTING DAMS AND WEIRS, EMIGRANT WILDERNESS, STANISLAUS NATIONAL FOREST, CALIFORNIA.

The Secretary of Agriculture shall enter into an agreement with a non-Federal entity, under which the entity will retain, maintain, and operate at private expense the 18 concrete dams and weirs located within the boundaries of the Emigrant Wilderness in the Stanislaus National Forest, California, as designated by section 2(b) of Public Law 93-632 (88 Stat. 2154; 16 U.S.C. 1132 note). The Secretary shall require the entity to operate and maintain the dams and weirs at the level of operation and maintenance that applied to such dams and weirs before the date of the enactment of such Act, January 3, 1975.

PURPOSE OF THE BILL

The purpose of H.R. 1663 is to clarify the intent of the Congress in Public Law 93-632 to require the Secretary of Agriculture to continue to provide for the maintenance of 18 concrete dams and

weirs that were located in the Emigrant Wilderness at the time the wilderness area was designated as wilderness in that Public Law.

BACKGROUND AND NEED FOR LEGISLATION

Between 1931 and 1954 local sporting enthusiasts and back country users led by Tuolumne County resident Fred Leighton built and constructed a series of 18 dams and concrete weirs throughout the area which later came to be known as the Emigrant Wilderness Area. These dams were built from native rock so as to blend in naturally with their surroundings. Most of these dams do not exceed two feet in height. The largest dam is approximately seven feet tall. Until the utilization of air stocking, both local sporting groups and later the California Department of Fish and Game stocked the lakes with fish. The last dam was built in 1954, 20 years before wilderness designation was considered for the area.

Currently, the Forest Service is in the process of developing a management plan for the Emigrant Wilderness. This document is being developed by staff of the Pinecrest District Ranger Station. Under the preferred alternative offered in its draft management plan, the study team proposed eliminating 11 of 18 existing dams through a policy of non-repair. Under their proposal the remaining seven would be proposed for the historical registry and maintained at Forest Service expense.

The Emigrant Wilderness Area was established in 1974 by H.R. 12884, and signed into law by President Nixon. At the time many local users and groups were opposed to wilderness designation because of the restrictions which accompany the new status. As federal wilderness, no motorized activity is allowed within the wilderness boundaries, even for search and rescue purposes.

Although not specifically indicated within the final draft of the bill, it is generally believed to have been the intent of Congress to preserve and leave in place the 18 "check dam" structures. Among others, Art Smith, the Chief Recreation Officer for the Stanislaus National Forest, has repeatedly gone on record as stating it is his belief these dams were to be maintained. Additionally, report language on the 1974 Act stated: "Within the area recommended for wilderness designation, there are drift fences (5 miles) which will be maintained, but several cabins and barns will be removed within ten years. Two snow cabins will be retained. The weirs and small dams will likewise be retained." (House Report No. 93-989, p. 10, April 11, 1974)

In 1990, the Stanislaus National Forest staff under direction from then Regional Forester Blain Cornell, prepared and put out for public comment an updated management plan for the Stanislaus National Forest. Among other items, staff's final recommendation were to preserve 12 of the 18 dams and allow the remaining six to deteriorate naturally. The final draft of the document received two appeals, one from the Wilderness Coalition, which appealed on the basis of removing all 18 dams. The second was from the local president of the Tuolumne County Sportsman's Association, who appealed for the preservation of all 18 dams. In a series of letters from the Wilderness Coalition to Cornell's office, legal action was threatened if the Coalition's position was not upheld.

Despite the best evidence, Deputy Regional Forester Joyce Muracka overturned local staff's findings and directed that all the dams be removed within a five year time period. After a large public outcry on the part of the Tuolumne County Board of Supervisors, local staff, and dam supporters, the Regional office reversed its findings and directed the Stanislaus staff to redo the entire management plan. In the interim, no further maintenance of the dams, at public or private expense, has been allowed.

COMMITTEE ACTION

H.R. 1663 was introduced on May 20, 1997, by Congressman John T. Doolittle (R-CA). The bill was referred to the Committee on Resources, and within the Committee to the Subcommittee on Forest and Forest Health. On July 10, 1997, the Subcommittee held a hearing on H.R. 1663, where the Administration testified in opposition to the bill. On July 16, 1997, the Resources Committee met to mark up H.R. 1663 and discharged the Subcommittee from further consideration of the bill. An amendment was offered by Mr. Doolittle and adopted by voice vote to direct the Secretary of Agriculture to enter into an agreement with a non-Federal entity under which the entity will retain, maintain, and operate at private expense the 18 concrete dams and weirs located within the boundaries of the Emigrant Wilderness in the Stanislaus National Forest, California, as designated by section 2(b) of Public Law 93-632. The Secretary shall require the entity to operate and maintain the dams and weirs at the level of operation and maintenance that applied to such dams and weirs before the date of the enactment of such Act, January 3, 1975. The bill as amended was then ordered favorably reported to the House of Representatives by voice vote.

COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

With respect to the requirements of clause 2(l)(3) of rule XI of the Rules of the House of Representatives, and clause 2(b)(1) of rule X of the Rules of the House of Representatives, the Committee on Resources' oversight findings and recommendations are reflected in the body of this report.

CONSTITUTIONAL AUTHORITY STATEMENT

Article I, section 8 and article IV, section 3 of the Constitution of the United States grant Congress the authority to enact H.R. 1663.

COST OF THE LEGISLATION

Clause 7(a) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs which would be incurred in carrying out H.R. 1663. However, clause 7(d) of that Rule provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 403 of the Congressional Budget Act of 1974.

COMPLIANCE WITH HOUSE RULE XI

1. With respect to the requirement of clause 2(l)(3)(B) of rule XI of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974, H.R. 1663 does not contain any new budget authority, spending authority, credit authority, or an increase or decrease in revenues or tax expenditures.

2. With respect to the requirement of clause 2(l)(3)(D) of rule XI of the Rules of the House of Representatives, the Committee has received no report of oversight findings and recommendations from the Committee on Government Reform and Oversight on the subject of H.R. 1663.

3. With respect to the requirement of clause 2(l)(3)(C) of rule XI of the Rules of the House of Representatives and section 403 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for H.R. 1663 from the Director of the Congressional Budget Office.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, July 17, 1997.

Hon. DON YOUNG,
*Chairman, Committee on Resources,
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 1663, a bill to clarify the intent of the Congress in Public Law 93-632 to require the Secretary of Agriculture to continue to provide for the maintenance of 18 concrete dams and weirs that were located in the Emigrant Wilderness at the time the wilderness area was designated as wilderness in that public law.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Victoria V. Heid.

Sincerely,

JUNE E. O'NEILL, *Director.*

Enclosure.

H.R. 1663—A bill to clarify the intent of the Congress in Public Law 93-632 to require the Secretary of Agriculture to continue to provide for the maintenance of 18 concrete dams and weirs that were located in the Emigrant wilderness at the time the wilderness area was designated as wilderness in that public law

CBO estimates that enacting this bill would have no significant impact on the federal budget. Because H.R. 1663 would not affect direct spending or receipts, pay-as-you-go procedures would not apply. H.R. 1663 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act of 1995 and would have no impact on the budgets of state, local, or tribal governments.

H.R. 1663 would direct the Secretary of Agriculture to enter into an agreement with a non-federal entity to retain, maintain, and operate at private expense 18 concrete dams and weirs in the Emigrant Wilderness within the Stanislaus National Forest, California.

According to the Forest Service, under a management decision made in 1989 the Forest Service has maintained 12 structures and allowed the other 6 to deteriorate naturally; however, under revisions to the management plan currently being prepared, the Forest Service is likely to continue maintaining only 7 of the 18 structures. Enacting H.R. 1663 would provide for maintaining all 18 structures—but at private expense. CBO estimates that implementing the bill would not result in a significant change in Forest Service spending.

The CBO contact for this estimate is Victoria V. Heid. This estimate was approved by Robert A. Sunshine, Deputy Assistant Director for Budget Analysis.

COMPLIANCE WITH PUBLIC LAW 104-4

H.R. 1663 contains no unfunded mandates.

CHANGES IN EXISTING LAW

If enacted, H.R. 1663 would make no changes in existing law.

